

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

2011 JAN -7 PM 3:01
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IO Group, Inc.

Plaintiff,

v.

Shoshana Pofelis

609-910-1492

and multiple John Does

Defendants,

Civil Action No. (or Docket No.)

C-10_4381 (CW)DMR

6 11 MC - 001

**AFFIDAVIT IN SUPPORT OF MOTIONS TO DISMISS, MOTION TO QUASH,
AND GENERAL DEFENSES**

Filed Under Penalty of Perjury

I, Shoshana Pofelis, the Affiant, am making and filing this affidavit solely in support of disputing jurisdiction in the above styled matter. However, in the event that jurisdiction is found proper, and proper service is effected on the undersigned, and if no supplementary answer is filed by the Defendant within 30 days of service, the intent of this affidavit shall be changed to be considered to be a verified response to the Plaintiff's complaint, negatively averring all claims, and setting forth affirmative defenses. I hereby certify that the following statements are true, and upon being first duly sworn on oath and before a person authorized to take swear and accept such oath, I, the Affiant, sayeth that:

Personal Jurisdiction

1. Affiant has had no contact and done no business with the Plaintiff, and has not entered into any agreements with the Plaintiff that is the subject of this claim and relief sought.
2. Affiant does not reside within the state or district in which the above styled case was filed, and instead resides in Wilmington DE 19803
3. Affiant has not caused tortuous injury within the state or district in which the above styled case was filed.
4. Affiant does not regularly solicit business within the state or district in which the above styled case was filed.
5. Affiant does not engage in any other persistent course of conduct within the state or district in which the above styled case was filed.
6. Affiant does not derive substantial revenue from goods used or consumed, or services rendered, within the state or district in which the above case was filed.
7. I have taken no action, and had no contacts, which would reasonably allow me to anticipate being haled into court within the state or district in which the above case was filed.
8. I am unaware of any defenses that I have taken that are similar in nature to the other Defendants in this case, and I am unaware of any reasonable connection between myself and the cases of the other Defendants.

General Defenses/Affirmative Defenses

Affiant, by virtue of selection by mark of the below affirmative defenses, adopts the statements as true within this affidavit:

☐ Affiant had their computer, and other internet devices, inspected by a technician and found an infection of malicious software installed without consent of Affiant. Through this malicious software, a user, other than the Affiant, could have routed peer-to-peer traffic through the computer of Affiant, and making it appear to the Plaintiff as if the Affiant had committed an act of infringement. Affiant has no knowledge of the alleged infringement.

☐ Affiant runs an operating system (e.g. Linux, Windows Server, etc.) which would allow a bittorrent client to be operated by a remote user, and had such system open to multiple users at the time of alleged infringement. A user, other than the Affiant, could have committed the alleged infringement. Affiant has no knowledge of the alleged infringement.

☐ Affiant runs a Virtual Private Network, Proxy Server, or other such internet traffic re-routing server, and had such system open to multiple users at the time of the alleged infringement. A user, other than the affiant, could have committed the alleged infringement. Affiant has no knowledge of the alleged infringement.

☐ Affiant has a wireless router **without** security enabled (e.g. WEP, WPA, WPA2) and the internet address responsible for the alleged infringement was available for use to the general public within range. Affiant has no knowledge of the alleged infringement.

☒ Affiant has multiple computers in their residence used by multiple users (family members, roommates, friends, visitors, etc.), that all share the same IP address (internet connection). Affiant has no knowledge of the alleged infringement.

☒ Affiant has a wireless router **with** only WEP security enabled, and therefore the internet address responsible for the alleged infringement was susceptible to use to by the general public within range. Affiant has no knowledge of the alleged infringement.

☐ Affiant downloaded the movie, but such movie was intended to be used or used for non-profit educational purposes.

☒ Affiant, under penalty of perjury, certifies to this court, that they have no knowledge of the alleged infringement.

☐ Affiant owned a DVD of the movie during the alleged infringement and downloaded the movie in an effort to make a backup copy of the film on their computer.

☐ Affiant has multiple computers in their residence used by multiple users (family members, roommates, friends, visitors, etc.), that all share the same IP

address (internet connection). Affiant has knowledge of the alleged infringement,
but did not commit the alleged infringement.

FURTHER, AFFIANT SAYETH NAUGHT.

BY SIGNING BELOW, I hereby declare, certify, verify, and state, under penalty of
perjury under the laws of the United States of America, that the foregoing is true and
correct. Dated 12 /21 /20 10

Print Name:

X Shoshana Pofelis, pro se
Shoshana Pofelis

THE FOREGOING FACTS were sworn to, subscribed and acknowledged as true
before me on this 21 day, of December, 2010, by 2010,
who is personally known to me or who produced a valid state driver's license as
identification and who did take an oath.

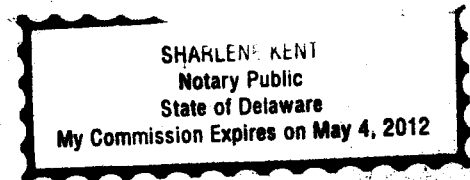
Sharlene Kent

Notary Public - State of Delaware

Printed Name: Sharlene Kent

My Commission No.:

My Commission Expires: 5/4/2012



(notary seal)

Dated this 21 day of December, 2010

Respectfully submitted,

X Shoshana Pofelis, pro se
Shoshana Pofelis

Name:

Address Ln1:

Address Ln2:

City, State, Zip: Wilmington DE 19803

Phone Number: 609-910-1492